

**SUMMONS ISSUED**

**CV - 12 0036**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
SAEEDA KHAN,  
individually and on behalf of a class,

Plaintiff,

vs.

BUDZIK & DYNIA, LLC

Defendant.  
-----X

**COMPLAINT - CLASS ACTION**

**INTRODUCTION**

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 04 2012 ★

LONG ISLAND OFFICE

ROSS, J.  
GO, M.

1. Plaintiff brings this action to secure redress against unlawful credit and collection practices engaged by defendant Budzik & Dynia, LLC. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"). The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337 and 15 U.S.C. §1692k (FDCPA).

3. Venue and personal jurisdiction over defendant in this District is proper because defendant's collection activities impacted plaintiff here and because defendant transacts business here.

**PARTIES**

4. Plaintiff Saceda Khan is an individual who resides in Kings County, New York.
5. Defendant Budzik & Dynia is an Illinois Limited Liability Company. Its principal executive office is located at 4849 N. Milwaukee Avenue, Suite 801, Chicago, Illinois 60630.

**FACTS**

6. On or about April 6, 2011, plaintiff was mailed the collection letter attached as Exhibit A. Plaintiff received it in the ordinary course of mail.
7. Exhibit A sought to collect a debt incurred for personal, family or household use and not for business purposes.
8. Exhibit A is, on information and belief, a form letter.

**VIOLATIONS ALLEGED**

9. Exhibit A violates 15 U.S.C. §§1692e and 1692e(10) by falsely implying that Jefferson Capital Systems, LLC might pursue its contractual rights within the initial thirty day validation period, when it does not.
10. Exhibit A violates 15 U.S.C. § 1692g(a)(3) by shifting the duties of the debt collector onto the consumer, by requiring the consumer provide a statement, when in fact, 15 U.S.C. § 1692g(a)(3) requires the debt collector to send the consumer a statement that unless the consumer, within thirty days after the receipt of the notice disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.

11. Section 1692e provides:

**§1692e. False or misleading representations [Section 807 of P.L.]**

**A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: ...**

**(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer....**

12. Section 1692g(a)(3) provides:

**§ 1692g(a)(3). A statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.**

### **CLASS ALLEGATIONS**

13. Pursuant to Fed.R.Civ.P. 23(a), plaintiff brings this claim on behalf of a class.

14. The class consists of (a) all natural persons with addresses in New York (b) who were sent a letter as Exhibit A, (c) seeking to collect a debt (d) on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.

15. The class is so numerous that joinder is impracticable.

16. On information and belief, there are more than 50 natural persons with addresses in New York who were sent a letter similar to Exhibit A on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.

17. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members.

The predominant common questions are:

a. Whether Budzik & Dynia, LLC proceeds against New York consumers in the initial thirty days.

b. Whether a consumer must provide a debt collector with a statement in order to dispute the validity of a debt.

18. Plaintiff's claims is typical of the claims of the class members. All are based on the same factual and legal theories.

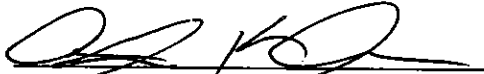
19. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

20. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible. The nature of the wrong depends on the deception of the consumer, so it is unlikely to be detected or remedied without a class action.

**WHEREFORE**, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendant for:

- a. A Declaration that Defendant's letter violates the FDCPA;
- b. Statutory damages;
- c. Attorney's fees, litigation expenses and costs of suit;
- d. Such other or further relief as the Court deems proper.

KLEINMAN LLC



Abraham Kleinman (AK-6300)

626 RXR Plaza

Uniondale, New York 11556-0626

Telephone (516) 522-2621

Facsimile (888) 522-1692

E-Mail: akleinman@kleinmanllc.com

JURY DEMAND

Plaintiff hereby demands trial by jury.



Abraham Kleinman (AK-6300)

**EXHIBIT A**



**BUDZIK & DYNIA, LLC**  
Attorneys at Law  
4849 N. Milwaukee Avenue  
Suite 801  
Chicago, IL 60630

\*Licensed Attorneys in:  
Arizona Illinois New Jersey  
Connecticut Maine New York  
Florida Massachusetts Wyoming  
Idaho Nevada

BDL #	Original Creditor	Current Creditor	Original Account #	Current Balance	Settlement Offer
294023	SALUTE VISA GOLD	Jefferson Capital Systems, LLC	4146810000210111	\$1,347.21	\$943.05

Phone: 773-902-1130 • Toll Free: 888-322-1296  
Fax: 773-482-6200 • Web: www.budzikdynia.com

**Saeeda Khan**  
777 E 31st St Apt 5B  
Brooklyn, NY 11210-3129

950

April 06, 2011

Dear Saeeda Khan:

Your Account has been placed with our office to seek a voluntary resolution with you for the Total Amount Due on your account. Accordingly, if you want to resolve this matter, we are offering a **limited time opportunity** for you to resolve your Current Balance of \$1,347.21 for only \$943.05!!! (unless it has already been paid). If you cannot pay the amount due today, please call us at 1-888-322-1296 to discuss further arrangements.

Please note that no attorney with this firm has personally reviewed the particular circumstances of your account at this time. However, our client has given us complete discretion in determining whether to pursue this account through legal remedies in the event a voluntary resolution is not reached. Therefore, if a resolution is not reached in a timely manner, our senior litigation counsel will review your file and determine whether or not to escalate the account and commence litigation on behalf of our client in the proper venue.

Federal law provides that if you do not provide us with a statement that you dispute the validity of this debt, or any portion thereof, within thirty days of the receipt of this letter, we may assume that such debt is valid. If you do dispute it by notifying us in writing to that effect, we will, as required by law, obtain verification of the debt or any related judgment against you, and mail such documentation to you. And, if within the same period, you request in writing the name and address of your original creditor, if the original creditor is different from the current creditor, we will furnish you with that information too.

The law does not require our client to wait until the end of the thirty day period before pursuing their contractual rights against you to collect this debt. If, however, you request proof of the debt or the name and address of the original creditor within the thirty-day period that, the law requires our firm to suspend our efforts to collect the debt until we mail the requested information to you.

Our client may provide information to credit bureaus about an insolvency, delinquency, late payment, or default in your account to include in your credit report as allowed by law.

**This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.**

\*\*\*detach below and return in the enclosed envelope with your payment\*\*\*

4849 N Milwaukee Ave.  
Suite 801  
Chicago, IL 60630

BDL#	Current Balance	Settlement Offer
294023	\$1,347.21	\$943.05

We accept the following Or call to make a payment 888-322-1296			<input type="checkbox"/> VISA	<input type="checkbox"/> M.C.
Card Number		Expiration Date		
Cardholder Zip Code	Last 3 Digits on the BACK of Card →	Verification Code		
Cardholder's Signature				
Contact Number	Payment Amount \$			

\*Please note that a 3% credit card processing fee will be applied to your payment amount in all states except: CT, ID, MA, MN, WA, and WI.

\*\*We do not accept credit cards in the state of Colorado\*\*

**Saeeda Khan**  
777 E 31st St Apt 5B  
Brooklyn, NY 11210-3129

Make your check or money order payable to:  
Budzik & Dynia, LLC  
4849 N Milwaukee Ave.  
Suite 801  
Chicago, IL 60630